

SHAWN N. ANDERSON  
United States Attorney  
MARIVIC P. DAVID  
Assistant U.S. Attorney  
Sirena Plaza, Suite 500  
108 Hernan Cortez Avenue  
Hagåtña, Guam 96910  
PHONE: (671) 479-4146  
FAX: (671) 472-7215

Attorney for the United States of America

**FILED**  
DISTRICT COURT OF GUAM

AUG 23 2021

JEANNE G. QUINATA  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KWONG YAU LAM,

Defendant.

CRIMINAL CASE NO. 21-00021

**INFORMATION**

**DISTRIBUTION AND SALE OF  
UNREGISTERED PESTICIDE**

[7 U.S.C. §§ 136j(a)(1)(A)  
and 136l(b)(1)(B)]  
(Count 1)

**CONSPIRACY TO DISTRIBUTE AND  
SELL UNREGISTERED PESTICIDE**

[18 U.S.C. § 371, 7 U.S.C. §§ 136j(a)(1)(A)  
and 136l(b)(1)(B)]  
(Count 2)

**FALSE STATEMENT TO  
GOVERNMENT AGENCY**

[18 U.S.C. § 1001(a)(2)]  
(Count 3)

THE UNITED STATES ATTORNEY CHARGES:

**INTRODUCTION**

At all times material to this Information:

1. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) regulates the production,

INFORMATION - 1

1 sale, distribution, and use of pesticides in the United States. A “pesticide” is any substance or  
2 mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7  
3 U.S.C. § 136(u); 40 C.F.R. § 152.3. The term “pest” is broadly defined to include, among other  
4 things, viruses, bacteria, or other micro-organisms. 7 U.S.C. § 136(t). The term “antimicrobial  
5 pesticide” is defined as a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth  
6 or development of microbiological organisms, or to protect inanimate objects or surfaces from  
7 contamination caused by bacteria, viruses, and other microbes. 7 U.S.C. § 136(mm); 40 C.F.R. §  
8 152.5(d).

9 2. FIFRA requires all pesticides to be registered with the U.S. Environmental Protection  
10 Agency (EPA) before they can be sold or distributed. 7 U.S.C. § 136a(a). The registration  
11 process is detailed, and applicants are required to submit a substantial amount of information to  
12 the EPA in support of a request for registration. Information that must be submitted in support of  
13 an application to register a pesticide includes the complete formula of each pesticide for which  
14 registration is sought, including the identity of its active and inert ingredients, all proposed  
15 labeling for the pesticide, and a statement of all pesticidal claims to be made for the pesticide.  
16 *See* 7 U.S.C. § 136a(c).

17 3. Antimicrobial pesticides are subject to specific data requirements in order to be registered  
18 by the EPA. *See* 40 C.F.R. Part 158, Subpart W. All antimicrobial pesticide applicants for  
19 registration must ensure through testing that their product is efficacious when used in accordance  
20 with label directions and commonly accepted pest control practices. 40 C.F.R. § 158.2220(a)(1).  
21 An antimicrobial pesticide that makes “public health claims” must be supported by additional  
22 product performance data required by the EPA as part of the application for registration. 40  
23 C.F.R. § 158.2220(a)(2). An antimicrobial pesticide product is considered to make a “public  
24 health claim” if the product bears a claim to control pest microorganisms that pose a threat to  
INFORMATION - 2

1 human health and whose presence cannot be readily observed by the user. 40 C.F.R. §  
2 158.2204(a).

3 4. Registered pesticides are given a product registration number beginning with the phrase  
4 “EPA Reg. No.” Pesticide-producing establishments also receive an establishment -registration  
5 number (designated by the phrase “EPA est. No.”). 40 C.F.R. §§ 156.10(e) and 156.10(f). As a  
6 condition of registration, all registered pesticides must have a label that bears both the product  
7 registration and establishment numbers. 40 C.F.R. § 156.10(a). This label also must contain  
8 several other pieces of information, such as the directions for the use of the pesticide (40 C.F.R.  
9 § 156.10(i)); child hazard warnings (40 C.F.R. § 156.66); a first aid statement (40 C.F.R.  
10 §156.68); precautionary statements for humans and domestic animals (40 C.F.R. § 156.70); and  
11 environmental hazard and precautionary statements (40 C.F.R. §§ 156.80 and 156.85). Proposed  
12 labels must be submitted to the EPA along with the application for registration. 40 C.F.R. §  
13 152.50(e); 7 U.S.C. §§ 136a(c)(1)(C) and 136a(c)(5)(B). All required information on a label is  
14 required to appear in the English language. 40 C.F.R. § 156.10(a)(3). All pesticides intended for  
15 use in the United States are to bear their EPA registration number on their labels, preceded by the  
16 phrase “EPA Registration No.” or “EPA Reg. No.” 40 C.F.R. § 156.10(e).

17 5. It is unlawful for any person in any state to distribute or sell to any other person a  
18 pesticide that has not been registered under FIFRA. 7 U.S.C. § 136j(a)(1)(A). FIFRA defines  
19 “distribute or sell” to include not only actual sale or distribution of a pesticide, but also the act of  
20 offering a pesticide for sale. 7 U.S.C. § 136(gg); 40 C.F.R. § 152.3.

21 6. It is also unlawful for any person to sell or distribute to any other person a pesticide that  
22 is “misbranded.” 7 U.S.C. § 136j(a)(1)(E). A pesticide is “misbranded” under FIFRA if, *inter*  
23 *alia*, its container does not have a label bearing the pesticide’s registration number or if its  
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1 labeling bears any statement, design, or graphic representation relative to the pesticide or its  
2 ingredients, which is false or misleading. 7 U.S.C. § 136(q)(1)(A).

3 7. Taomit Virus Shut Out was a pesticide that was not registered with the EPA in  
4 accordance with FIFRA. Its label was printed in Japanese and did not contain its EPA  
5 registration numbers.

6 **COUNT 1: DISTRIBUTION AND SALE OF UNREGISTERED PESTICIDE**

7  
8 8. Paragraphs 1 through 7 of this Information are realleged and incorporated as if fully set  
9 forth herein.

10 9. On or about March 20, 2020, in the District of Guam, the defendant, KWONG YAU  
11 LAM, did knowingly distribute and sell a pesticide that was not registered, that is the defendant  
12 sold 100 packages of Taomit Virus Shut Out, which at the time was not registered under Title 7,  
13 United States Code, Section 136a, and that was not otherwise authorized by the Administrator of  
14 the U.S. Environmental Protection Agency, in violation of Title 7, United States Code, Sections  
15 136j(a)(1)(A) and 136l(b)(1)(B).

16 **COUNT 2: CONSPIRACY TO DISTRIBUTE AND SELL UNREGISTERED  
PESTICIDE**

17 10. Paragraphs 1 through 9 of this Information are realleged and incorporated as if fully set  
18 forth herein.

19 11. Between in or about late February 2020 and on or about March 22, 2020, in the District  
20 of Guam and elsewhere, the defendant, KWONG YAU LAM and others, known and unknown,  
21 did knowingly and intentionally conspire to distribute and sell a pesticide that was not registered,  
22 that is the defendant purchased and caused to be mailed from Hong Kong to Guam 600 packages  
23 of Taomit Virus Shut Out, which at the time was not registered under Title 7, United States  
24 Code, Section 136a, and that was not otherwise authorized by the Administrator of the U.S.

1 Environmental Protection Agency, in violation of Title 7, United States Code, Sections  
2 136j(a)(1)(A) and 136/(b)(1)(B).

3 All in violation of Title 18, United States Code, Section 371.

4 **COUNT 3: FALSE STATEMENT TO GOVERNMENT AGENCY**

5 12. On or about March 26, 2020, in the District of Guam, the defendant, KWONG YAU  
6 LAM, did knowingly and willfully make a materially false, fictitious, and fraudulent statement  
7 and representation in a matter within the jurisdiction of the executive branch of the Government  
8 of the United States by stating and representing to agents from the U.S. Department of Homeland  
9 Security, Homeland Security Investigations that he did not previously sell Taomit Virus Shut Out  
10 packages when, in truth and fact, as defendant KWONG YAU LAM then well knew, he had  
11 previously sold Taomit Virus Shut Out packages to vendors in Guam.

12 All in violation of Title 18, United States Code, Section 1001(a)(2).

13 DATED this 16th day of August 2021.

15 SHAWN N. ANDERSON  
16 United States Attorney  
17 Districts of Guam and the NMI

18 By:



19 MARIVIC P. DAVID  
20 Assistant U.S. Attorney  
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